

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████ 2021  
Signature Confirmation

Client ID#: ██████████  
Case ID #: ██████████  
Hearing ID#: 163588

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████  
██████████ ██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) denied ██████████  
██████████ (“the Appellant”) application for Long Term Care Medicaid benefits.

On ██████████ 2020, the Appellant’s daughter, requested an administrative hearing to  
contest the Department’s decision to deny such benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative  
Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for  
██████████ 2020.

On ██████████ 2020, the Appellant’s representative requested the administrative  
hearing be rescheduled.

██████████ 2020, OLCRAH issued a notice rescheduling the administrative hearing for  
██████████ 2020.

On ██████████ 2020, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184  
of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing.  
The following individuals were present at the hearing:

██████████, the Appellant’s daughter and representative

Marissa Luciani, Department's Representative  
Scott Zuckerman, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly denied the Appellant's application for Long Term Care Medicaid benefits.

### **FINDINGS OF FACT**

1. On [REDACTED] 2019, the Appellant was admitted to [REDACTED] [REDACTED] ("the facility"). (Hearing Summary)
2. On [REDACTED], 2020, the Appellant's UTC Represented Savings Plan had an opening balance of \$1504.39. (Exhibit 3: UTC Represented Savings Plan, Account Statement [REDACTED] 2020 to [REDACTED], 2020)
3. On [REDACTED] 2020, the Appellant's UTC Employee Savings Plan had a vested balance of \$1,507.78. (Exhibit 4: UTC Employee Savings Plan Account statement [REDACTED] 2020 through [REDACTED], 2020)
4. On [REDACTED] 2020, the Appellant's Colonial Penn Life Insurance Company Policy [REDACTED] had a cash value of \$429.10 and a face amount of \$12,968.00. (Exhibit 5: Letter from Colonial Penn)
5. On [REDACTED], 2020, the Appellant applied for Long Term Care Medicaid benefits. (Hearing Summary, Exhibit 1: W-1LTC Long-term Care/ Waiver Application, [REDACTED]/2020, Exhibit 16: Case notes, [REDACTED]/2020)
6. Senior Planning Services is the Appellant's daughter's authorized representative ("AREP") in assisting with the application process. (Exhibit 1: W-LTC, [REDACTED]/2020, Exhibit 16)
7. On [REDACTED] 2020, the Department sent the Appellant's representative a W-1348, Verification We Need form, requesting items needed to determine eligibility. Among the items needed was Citizens Bank account statements, Life insurance cash value and Sikorsky IRA and United technologies savings plan statements. (Hearing Summary and Exhibit 8: W-1348, [REDACTED]/2020)
8. On [REDACTED] 2020, the Department sent the Appellant's representative a W-1348, requesting items needed to determine eligibility. Among the items needed were bank statements and to reduce assets, including IRA and life insurance policies to under \$1600.00 (Exhibit 9: W-1348 LTC, [REDACTED]/2020)

9. On [REDACTED], 2020, the Department sent the Appellant's representative a W-1348, requesting items needed to determine eligibility. Among the items needed were bank statements. The notice stated that total assets must be reduced to under \$1600.00. (Exhibit 10: W-1348LTC, [REDACTED]/2020)
10. On [REDACTED], 2020, the Appellant passed - away. (Appellant's daughter's testimony, Hearing Summary)
11. On [REDACTED], 2020, the Appellant's UTC Represented Savings Plan had a vested balance of \$1,498.86. (Exhibit 3: UTC Represented Savings Plan, Account Statement [REDACTED], 2020 to [REDACTED] 2020)
12. On [REDACTED], 2020, the Appellant's UTC Employee Savings Plan had a vested balance of \$1,181.30. (Exhibit 4: UTC Employee Savings Plan Account statement [REDACTED] 2020 through [REDACTED], 2020)
13. On [REDACTED] 2020, the Department sent the Appellant's representative a W-1348LTC requesting items needed to determine eligibility. The notice stated that total assets must be reduced to under \$1600.00. (Exhibit11: W-1348LTC, [REDACTED]/2020)
14. On [REDACTED] 2020, the Department sent the AREP a w-1348LTC requesting items needed to determine eligibility. Among the items requested was Sikorsky IRA statement from [REDACTED] 2019 through present and provide proof assets have been reduced to under \$1600.00. (Exhibit 12: W-1348LTC, [REDACTED]/2020)
15. From [REDACTED] 2020 to [REDACTED] 2020 the Department sent multiple W-1348's requesting proof that the UTC savings plans, and Life Insurance cash value was spent down to under \$1600.00. (Exhibit 13; W-1348 and Exhibit 16: Case notes)
16. The Appellant's assets for the months of [REDACTED] 2020 through [REDACTED], 2020 were the following:

Month	Colonial Penn Life Insurance	UTC Employee Savings Plan	UTC Represented Savings Plan	Total Monthly Assets
[REDACTED] 2020	\$429.10	\$1507.78	\$1504.39	\$3441.27
[REDACTED] 2020	\$429.10	\$1507.78	\$1504.39	\$3441.27
[REDACTED] 2020	\$429.10	\$1181.30	\$1498.86	\$3109.26

(Ex. 3: UTC Represented Savings Plan Statement, [REDACTED], 2020 through [REDACTED], 2020, Ex. 4: UTC Employee Savings Plan statement, [REDACTED] 2020 through [REDACTED], 2020, and Ex. 5: Colonial Penn Life Insurance Letter dated [REDACTED], 2020)

17. The asset limit for Long Term Care Medicaid eligibility is \$1600.00. (Department's Testimony)
18. On [REDACTED], 2020, the Department sent the Appellant a Notice of Action denying Long Term Care Medicaid benefits. The notice stated, "the value of your assets is more than the amount we allow you to have". (Exhibit 14: Notice of Action, [REDACTED]/2020 and Ex. 16: Case Notes [REDACTED]/2020)
19. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2020. Therefore, this decision is due not later than [REDACTED], 2020. However, the hearing, which was originally scheduled for [REDACTED] 2020, was rescheduled for [REDACTED], 2020, at the request of the Appellant, which caused a 36 - day delay. Because this 36-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2021, and is therefore timely. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. The Department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178(1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. "The Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either: available to the unit; or deemed available to the unit." Uniform Policy Manual § 4005.05 (B)(1)
4. "Under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support." UPM § 4005.05 (B)(2)
5. "Bank accounts include the following. This list is not all inclusive." UPM § 4030.50(A)
  1. Savings account;
  2. Checking account;
  3. Credit union account;
  4. Certificate of deposit;

6. Patient account at long-term care facility;
7. Children's school account;
8. Trustee account;
9. Custodial account.

**The Department correctly determined that the Appellant's UTC Represented Savings Plan and UTC Employee Savings Plan accounts are counted assets and were available to the Appellant.**

6. UPM § 4030.30(A) provides that for all programs: 1. The owner of a life insurance policy is the insured unless otherwise noted on the policy, or if the insurance company confirms that someone else, and not the insured, can cash in the policy; and 2. Policies such as term insurance policies having no cash surrender value are excluded assets.
7. UPM § 4030.30(C) provides that for the AABD and MAABD programs: 1. If the total face value of all life insurance policies owned by the individual does not exceed \$1500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value; and 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.

**The Department correctly determined the cash surrender value of the Appellant's Colonial Penn Life Insurance Policy is counted toward the asset limit as the face value of \$12,968.00 is over the \$1500.00 threshold.**

8. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides that the beginning date of assistance for Medicaid may be one of the following:
  - A. The first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month; or
  - B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or
  - C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spend-down, refer to Income Eligibility Section 5520; or
  - D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.
9. UPM § 4026.05 pertains to the calculation method for counted assets and states:

The amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner:

- A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit:
  - 1. those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and
  - 2. assets which are excluded from consideration.
- B. The Department adjusts the amount of the assistance unit's available non-excluded assets by:
  - 1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross Reference: 4022.05); and
  - 2. adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and
  - 3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10).
- C. The amount remaining after the above adjustments is counted.

**The Department correctly counted the Appellant's assets for the months of [REDACTED] 2020 through [REDACTED] 2020.**

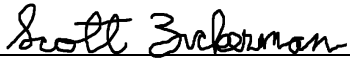
- 10. "In the Medicaid program, the asset limit for one person is \$1,600.00." UPM 4005.10 (A)
- 11. "In the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit." UPM § 4005.15 (A)(2)

**The Appellant had assets that exceeded the Medicaid asset limit of \$1600.00 for the months of [REDACTED] 2020 through [REDACTED] 2020.**

**On [REDACTED] 2020, the Department correctly denied the Appellant's application for Long Term Care Medicaid, as the assets exceeded the allowable limit.**

**DECISION**

The Appellant's appeal is **DENIED**.

  
\_\_\_\_\_  
Scott Zuckerman  
Hearing Officer

Cc: Yecenia Acosta, Operations Manager, DSS, Bridgeport Regional Office  
Tim Latifi, Operations Manager, DSS, Bridgeport Regional Office  
Marissa Luciani, Fair Hearing Liaison, DSS, Bridgeport Regional Office

### **RIGHT TO REQUEST RECONSIDERATION**

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within **25** days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on § 4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue Hartford, CT 06105.

### **RIGHT TO APPEAL**

The appellant has the right to appeal this decision to Superior Court within **45** days of the mailing of this decision, or **45** days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on § 4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with § 17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.